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New Law Tightens Up Two Social Security Loopholes

New federal legislation signed on November 2, 2015 – the Bipartisan Budget Act – effectively ends two popular Social Security planning techniques: the "file-and-suspend" strategy and the "restricted application" strategy. However, some retirees still may benefit from one or both of these for a limited time.

Other basic rules affecting Social Security retirement benefits haven't changed. So if you're preparing to retire you'll still face important decisions about applying for benefits. In particular, you'll need to determine whether you want to apply for Social Security benefits early, at full retirement age (FRA), or later.

- You're eligible for Social Security retirement benefits when you turn 62, but if you start then you'll receive less than if you delayed payments for a few years. At age 62, your benefit will be about 25% lower than it would have been if you waited until your FRA.
- If you wait until FRA to apply for benefits, you will receive 100% of the benefits to which you're entitled. The FRA varies according to your date of birth. For those born before 1943, FRA is 65. For those born from 1943 through 1954, FRA is age 66. It gradually increases until topping out at age 67 for those born after 1959.
- Finally, you can delay the start of benefits past when you reach FRA, and that would increase your monthly payment. The longer you wait, up until you turn 70, the higher your benefit will be. (Delaying past 70 won't bump up your benefit, however.) If you were born in 1943 or later, your annual benefit amount will rise by 8% for each year beyond FRA that you wait to collect benefits.

Other special considerations may come into play for married couples. In a situation in which one spouse is entitled to a greater benefit than the other based on their respective earnings histories, the lower-earning spouse may claim "spousal benefits" providing a larger monthly payment. This wrinkle in the law for Social Security relates to these two loopholes closed by the new law:

1. File-and-suspend strategy. With this approach, the higher-earning spouse usually opts to apply for retirement benefits at FRA. That spouse then suspends payment of the benefits, as now allowed by Social Security rules, which can lead to greater future benefits. Typically, that higher-earning spouse would wait until age 70 before starting to receive benefits. In the meantime, the lower-earning spouse claims spousal benefits, which will be larger than he or she otherwise would have received.

(Continued on page 4)

Ben's Banter

We wish everyone a happy holiday season and a wonderful 2016 with health, happiness and prosperity! Unfortunately, during this time of year we know that crime increases, especially fraud against the elderly.

We all have heard of cyber-crime, and immediately think of places, like Target, that have had their computers hacked and credit card numbers stolen. But cyber-crime is often more personal. Through the use of social media, criminals have been able to obtain personal information that many of us make public online, and then use that info against us.

For example, after following Facebook, the criminal finds out that your grandchild is overseas. One evening the phone rings and you are told that your grandchild is in trouble and needs funds wired to avoid jail. You also are told that his cell phone is gone, and asked not to call his parents, since he doesn't want his parents upset. Too often the elderly will send the funds. Best defense – be on the lookout and make calls to verify the situation!

A client of ours recently received such a call, but didn't take the bait. He told the crook to call the boy's parents, and hung up. Way to go! Keep your eyes and ears open and when presented with such a situation, try to think clearly.

Remember – no one plans to fail, they just simply fail to plan!

Thanks,
Ben
CPA/PFS, CFP®, CIMA®

Be Aware Of Your Tax Surroundings

When you trade stocks, bonds, or other capital assets, it makes sense to focus on the "bottom line"—whether you'll make or lose money, and how big your profit or loss may be. But what you're doing has tax consequences, too, and you need to be aware of what they are. And sometimes the likely tax ramifications of a transaction could influence whether you go ahead with it.

For simplicity, this discussion of tax-aware investing will look only at federal taxes, although there may be similar results on the state level.

Start with the basic premise that you can "net" any capital gains and losses you realize during the year, with losses subtracted from your gains. Any excess loss can be used to offset up to $3,000 of ordinary income, which is taxed at rates as high as 39.6%. If you have additional losses, you can carry them over to the following year.

Long-term capital gains are taxed at a maximum rate of 15%, or a top rate of 20% if you're in the top ordinary income tax bracket of 39.6%. To the extent that any of your long-term capital gains are taxed in the two lowest income tax brackets of 10% and 15%, the tax rate is 0%.

That can be especially beneficial to a tax-savvy investor. Suppose you realize a net long-term capital gain of $25,000 from a securities transaction this year. If you have $15,000 of room to spare before you cross into the 25% tax bracket for ordinary income, there will be zero tax on the first $15,000 of gain. The remaining $10,000 then will be taxed at the 15% rate for long-term capital gains. In other words, you pocket $25,000 of gain and pay a total capital gains tax of only $1,500!

Short-term capital gains, meanwhile, are taxed at ordinary income rates. This could have an impact on how long you hold securities, perhaps convincing you to delay taking a profit until it qualifies as a long-term gain. Upper-income investors also may have to pay a 3.8% surtax on some investment income.

"Qualified" dividends from U.S. companies benefit from the same preferential tax rates as long-term capital gains. To qualify, you must have held the stock for more than 60 days during the 121-day period that begins 60 days before the ex-dividend date (that is, the first date following the declaration of a dividend on which the buyer of a stock is not entitled to receive the next dividend payment).

Other types of investments, too, may be eligible for favorable tax treatment. For instance, while payouts from employer-sponsored retirement plans and IRAs are taxed as ordinary income, qualified distributions from Roth IRAs are 100% tax-free after five years. The tax law includes other statutory benefits that may apply to real estate, annuities, master limited partnerships, and life insurance.

Tax aspects are a critical part of your investment decisions. If you can learn how they work and what the potential tax impact is, you may be able to keep more of your investing profits. We can help you determine how to proceed. ●

Are You Afraid Of The Estate Tax?

Who has to worry about federal estate taxes? They're an afterthought if you believe they affect only families such as the Rockefellers and DuPonts. But the truth is that the reach of this tax may extend further than you think, according to the latest IRS statistics.

Estate Tax Returns Filed in 2014, published in an IRS Statistics of Income report, shows that 11,931 estate tax returns were filed in 2014 on estates with a total value of $169.5 billion. Those figures represent a significant increase from the 2013 IRS statistics when 10,568 returns were filed on estates valued at a total of $138.7 billion, continuing a recent upward trend.

In other figures of note, the breakdown for 2014 estate tax return filings based on gross estate valuation were as follows:

- For returns under $5 million, 1,631 returns were filed on estates totaling $5.4 billion in value.
- For returns of $5 million to $10 million, 6,735 returns were filed on estates with a total value of $46.2 billion.
- For returns of $10 million to $20 million, 2,283 returns were filed on estates with a total value of $30.9 billion.
- For returns of $20 million to $50 million, 938 returns were filed on estates worth a total of $27.9 billion.
- For returns of $50 million or more, 345 returns were filed for estates worth $59.1 billion in total.

The figures are interesting on a couple of levels. First, they indicate that more families are being hit by the federal estate tax. Second, they would be even higher if taxpayers didn't avoid federal estate tax complications through some smart legal maneuvering.

Consider these basic tax breaks that are at your disposal: Under the unlimited marital deduction, any amount transferred from one spouse to

Yellen's Upset Stomach Prompts CNN "Freak-Out"

Investors on September 24th were dealt yet one more reason not to trust everything on cable financial news, especially what's on the Web. CNN Money on September 25th posted a video on YouTube audaciously entitled, "People are freaking out about this Janet Yellen speech." In fact, the 69-year-old Fed chair suffered symptoms of dehydration while making an important speech. After making some major policy pronouncements on inflation, China's economic slowdown, and declaring rates shall rise by the end of 2015, a video captured Yellen fighting off upchucking. Yellen stoically carried on with her presentation, halting uncomfortably for long periods. At one point, thankfully, she belched.

Brooklyn-born Yellen showed on live TV that she is tough and not just brilliant. She was treated by EMTs for dehydration after ending her speech abruptly, according to numerous reports.

On September 25th, Yellen joked to a reporter, "I look good now, don't I?"

CNN Money is one of the most popular destinations on the Web for news about investing. It is well known that media outlets have a financial incentive to sensationalize stories to boost views of video ads. Rarely, however, do investors see how the YouTube era threatens the credibility of financial news organizations.

CNN's "freaking out" headline is a deliberate effort to draw viewers to CNN's YouTube channel, where you must view an ad to see the video headline you clicked on. CNN's headline was mild compared to other click-bait, including: "YELLEN SUFFERES (sic) NERVOUS BREAKDOWN - Federal Reserve Janet Yellen Going Into Meltdown During Speech."

In fairness to CNN, its other stories covered Yellen's speech without any pandering. The rest of CNN's coverage was responsible and informative. Ad-selling headlines were limited to the CNN's YouTube headline, "People are freaking out about this Janet Yellen Speech."

Yellen's remarks gave CNN plenty of great headlines. She said unequivocally the Fed would raise rates by the end of the 2015. A 25-basis-point hike is widely expected. This was the real story! But real news organizations — CNN is not alone — must drive traffic to ads with sensational headlines to pay for giving you its coverage.

Yellen, before she became ill, had said she expected China's economic slowdown will not materially alter U.S. economic growth. She also said she expected the Asian slowdown caused by China's slowing growth not to hinder U.S. growth significantly. If Yellen believed otherwise, she would not have announced a rate hike was coming by the end of the year.

What's most perverse about the sensational headlines following Yellen's upset stomach is that Yellen's prepared remarks were released to the press before 5 p.m. EDT on Thursday, September 24, when she gave her speech. Why did a team of journalism professionals think it was okay to exaggerate Yellen's stomach ache when she was giving them real news in her remarks?

Yellen, in speeches and Congressional testimony, has articulated the U.S. central bank's monetary policies clearly in advance of every major Fed action since she was sworn-in on February 3, 2014. She is setting a new standard for transparency by the Fed. It's a long way from Alan Greenspan's obtuse explanations of Fed decisions.

Yellen was speaking September 24th at The Phillip Gamble Memorial Lecture at University of Amherst in Amherst, Massachusetts, when she suffered her brief episode of gastrointestinal distress. The first woman to chair the Federal Reserve Board, Yellen was courageous for carrying on as long as she did. ●

another, whether by gift or bequest, is completely exempt from tax. In addition, amounts you leave to other beneficiaries such as your children and grandchildren are covered by the unified estate and gift tax exemption of $5.43 million in 2015. Also, the annual gift tax exclusion allows you to give each family member and others up to $14,000 free of gift tax in 2015. Gifts above this limit may be sheltered by the unified estate and gift tax exemption, although this will erode the amount available to reduce estate taxes.

Furthermore, the "portability" provision in the tax code provides extra flexibility for married couples. If a proper election is made, the estate of a surviving spouse can benefit from any unused portion of the estate tax exemption of the first spouse to die.

By utilizing and combining these tax breaks through various estate-planning devices, including sophisticated trusts, you may avoid the high tax bills awaiting unsuspecting families. Finally, don't overlook the potential impact of state inheritance taxes. Contact our office for more details. ●

Show More Life With A Living Trust

In some financial circles, a revocable living trust has been touted as a staple of estate planning that can even be used to replace a legally valid will. Normally, however, a living trust is viewed as a supplement to a will, not an outright replacement. Here's how this estate-planning technique may serve you best—in life and death:

It's important to understand the basic differences between a will and a living trust. Your "last will and testament" is a legal document determining how, when, and to whom your possessions will be distributed upon your death. It doesn't have any effect until you die. However, a will normally must go through probate before distributions are made. (Property passing through joint rights of survivorship may be one exception to that rule.)

In addition, a will alone may not achieve all of your estate-planning objectives. For instance, you can't impose any conditions on gifts made through a will.

A revocable living trust also is a legally valid document, and you may be able to transfer securities, real estate, or other property to the trust, and you can give the trustee power to manage it on behalf of the designated beneficiaries. Typically, you might name yourself as both the trustee and the initial beneficiary of the trust. At the same time, you can designate other family members—say, your spouse, your children, or both—as secondary beneficiaries entitled to receive remaining assets in the trust when it terminates.

With a living trust, you'll retain a high level of control while you're alive. For instance, you may be able to sell trust assets and keep the cash, amend the terms of the trust (for example, by changing secondary beneficiaries), or revoke it entirely. Unlike a will, a living trust allows you to place restrictions on gifts to beneficiaries. The trust becomes irrevocable when you die.

The main advantage living trusts have over wills is that the property transferred to the trust doesn't have to go through probate. Depending on the state in which you live, probate can be time-consuming. In addition, unlike a will, a living trust isn't available to public inspection, ensuring complete privacy with respect to the assets it holds and distributes.

But don't assume that a living trust is a panacea. It will require some time and work on your part to make all of the necessary arrangements. Also, if you devise a "pour-over will" to catch assets not in the living trust, the will must be probated anyway. Finally, despite some claims to the contrary, there are no estate-tax benefits for property transferred to a living trust.

Clearly, a living trust may provide valuable benefits, but it usually works best hand in hand with your will. We can help you work with your attorneys to find a solution that works for you. ●

Social Security Loopholes

(Continued from page 1)

Under the new law, the file-and-suspend strategy won't be available beginning April 30, 2016, six months from the date of enactment. If you suspend your benefits, your spouse won't be entitled to the higher spousal benefit. However, if you're already using file-and-suspend, you're "grandfathered in" under the new law. In addition, you still can benefit from this technique if you qualify and apply for benefits before May 1, 2016.

2. Restricted application strategy. The new law also effectively ends the restricted application strategy, sometimes called "claim now, claim more later." Here, a spouse who is approaching FRA and is eligible for benefits on his or her own behalf *and* for spousal benefits files a restricted application to receive spousal benefits only. That spouse then waits until later—typically until age 70—to apply for benefits based on his or her own earnings record. This approach enables the spouse to build up more Social Security credits.

The new law eliminates the option of filing a restricted application for spousal benefits only. If you will turn age 62 after 2015, you must claim all of your benefits upon filing, based on whichever will give you a higher payment—your own earnings history or the spousal benefit. However, if you turn 62 before January 1, 2016, you still can use the restricted application strategy when you reach FRA.

The new law closes two loopholes that had been able to generate thousands of dollars in extra retirement benefits for some couples. But there still will be room for decisions that could boost your Social Security benefits. For example, it may be advantageous to delay benefits until you're past FRA, even without the file-and-suspend strategy. We would be glad to assist you in deciding how to proceed. ●

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